

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ERIC WEINER, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

v.

TIVITY HEALTH, INC., *et al.*,

Defendants.

Case No.: 3:17-cv-01469

Chief Judge Crenshaw
Magistrate Judge Newbern

**NOTICE OF MOTION AND MOTION FOR AN AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF LITIGATION EXPENSES, AND COMPENSATORY AWARD
TO CLASS REPRESENTATIVE**

PLEASE TAKE NOTICE that on October 4, 2021, at 4:00 p.m. at the United States District Court for the Middle District of Tennessee, Estes Kefauver Federal Building & Courthouse, 801 Broadway, Courtroom A859, Nashville, TN 37203, Class Representative and Lead Plaintiff Oklahoma Firefighters Pension and Retirement System (“Class Representative”) will and hereby does move the Court, the Honorable Chief Judge Waverly D. Crenshaw, for an order awarding attorneys’ fees to Class Counsel, reimbursement of expenses to Class Counsel, and a reimbursement award to Class Representative to be paid from the Settlement Fund.

This motion is based upon this notice of motion, the accompanying memorandum of law, the accompanying Declaration of Daniel S. Sommers in support of the motion, the exhibits attached thereto, all other pleadings and matters of record, and such additional evidence or argument as may be presented at or before the hearing.

Defendants have informed Class Representative that they are unopposed to this motion. Pursuant to the Court's Preliminary Approval Order (Doc. No. 162, as amended by Doc. No. 165), the deadline for members of the Class to file objections, if any, is September 20, 2021.

Dated: September 13, 2021

Respectfully submitted,

/s/ Benjamin A. Gastel
**BRANSTETTER, STRANCH &
JENNINGS, PLLC**
J. Gerard Stranch IV (BPR #23045)
Benjamin A. Gastel (BPR #28699)
223 Rosa L. Parks Avenue
Suite 200
Nashville, TN 37203
Telephone: (615) 254-8801
Facsimile: (615) 255-5419
gerards@bsjfirm.com
beng@bsjfirm.com

Liaison Counsel

**COHEN MILSTEIN SELLERS &
TOLL PLLC**
Steven J. Toll (*pro hac vice*)
Daniel S. Sommers (*pro hac vice*)
Joshua C. Handelsman (*pro hac vice*)
1100 New York Avenue N.W.
Suite 500
Washington, D.C. 20005
Telephone: (202) 408-4600
Facsimile: (202) 408-4699
stoll@cohenmilstein.com
dsommers@cohenmilstein.com
jhandelsman@cohenmilstein.com

Christina D. Saler (*pro hac vice*)
Three Logan Square
1717 Arch Street, Suite 3410
Philadelphia, PA 19103
Telephone: (267) 479-5707

Facsimile: (267) 479-5701
csaler@cohenmilstein.com

Jessica (Ji Eun) Kim (*pro hac vice*)
88 Pine Street
14th Floor
New York, NY 10005
Telephone: (212) 838-0979
Facsimile: (212) 838-7745
jekim@cohenmilstein.com

*Counsel for Lead Plaintiff and Class
Representative and the Class*

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of September, 2021, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filings to the following:

Eduard Korsinsky
Levi & Korsinsky, LLP
30 Broad Street
24th Floor
New York, NY 10004
(212) 363-7500
Fax: (212) 363-7171
Email: ek@zlk.com

James A. Holifield, Jr.
Holifield Janich Rachal & Associates, PLLC
11907 Kingston Pike
Suite 201
Knoxville, TN 37934
(865) 566-0115
Fax: (865) 566-0119
Email: aholifield@holifieldlaw.com

Attorneys for Plaintiff Eric Weiner

Lisa R. Bugni
Brandon R. Keel
Jessica Perry Corley
King & Spalding LLP (Atlanta Office)
1180 Peachtree Street NE
Atlanta, GA 30309-3521
(404) 572-4717
(404) 572-4677
Email: bkeel@kslaw.com
Email: jpcorley@kslaw.com
Email: lbugni@kslaw.com

Joseph Akrotirianakis
King & Spalding LLP (CA Office)
633 West Fifth Street
Suite 1600
Los Angeles, CA 90071
(213) 443-4313
Email: jakro@kslaw.com

Joseph B. Crace, Jr.
Wallace Wordsworth Dietz
Briana T. Sprick Schuster
Bass, Berry & Sims (Nashville Office)
150 Third Avenue South
Suite 2800
Nashville, TN 37201
(615) 742-7896
(615) 742-6200
(615) 742-7853
Fax: (615) 742-2700
Email: jcrace@bassberry.com
Email: wdietz@bassberry.com
Email: briana.sprick.schuster@bassberry.com

Attorneys for the Defendants

/s/ Benjamin A. Gastel
Benjamin A. Gastel (BPR #28699)
BRANSTETTER, STRANCH &
JENNINGS, PLLC